



State of Utah

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.  
*Executive Director*

CARLOS M. BRACERAS, P.E.  
*Deputy Director*

May 1, 2008

West Valley City  
3600 Constitution Blvd.  
West Valley City, Utah 84119

ATTENTION: Dan Johnson, City Engineer

SUBJECT: SP-0171(18)6; Salt Lake County  
3500 South; Bangerter Highway to 2700 West, Phase II  
**QWEST CORPORATION**  
Qwest Job Number: H76A107  
**WEST VALLEY CITY CORPORATION**  
**UTAH DEPARTMENT OF TRANSPORTATION**  
Authority No. 78125 PIN 5608

Dear Dan:

Attached are five copies of the three party cooperative participation agreement between the Utah Department of Transportation, Qwest Corporation and West Valley City for the above subject project.

This agreement has now been signed by Qwest Corporation. Please review this document. If it is found to be satisfactory for the purposes intended, please have the proper officials sign and attest four copies and return them to this office. A copy of the fully executed agreement will be mailed to you when it is available.

Sincerely,

Vicki Townsend  
UDOT Region Two Contract Specialist

CC: Ben Huot, Region 2

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**UTAH DEPARTMENT OF TRANSPORTATION**  
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**COOPERATIVE PARTICIPATION AGREEMENT**

**WITH BETTERMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**UDOT**" and **QWEST CORPORATION**, a Registered Corporation in the State of Colorado, hereinafter referred to as the "**Company**", and **WEST VALLEY CITY CORPORATION**, hereinafter referred to as the "**City**",

**WITNESSETH:**

**WHEREAS**, **UDOT** is engaged in preparing plans, specifications and estimates of costs toward constructing the highway project identified as SP-0171(18)6; 3500 South, Bangerter Highway to 2700 West, Phase II, in West Valley City, Salt Lake County, Utah. Said project necessitates work consisting of relocating/adjusting the **Company's** facilities; and

**WHEREAS**, in accordance with Utah Code Annotated 1953, as amended effective July 1, 2000, 72-6-116. Regulation of Utilities - Relocation of Utilities, (3) (a) (ii), **UDOT** will reimburse the **Company** 50% of the cost of relocation of their facilities located on state highway; and

**WHEREAS**, the **City** shall participate in the cost of the **Company** aerial to buried betterment work located within **City** limits; and

**WHEREAS**, in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, the **Company** has determined, with the concurrence of **UDOT**, that accrued depreciation credit is not required as a result of said work; and

**WHEREAS**, **UDOT** has determined by formal finding that payment for said work on public right of way is not in violation of the laws of the State of Utah or any legal contract with the **Company**; and

**WHEREAS**, the **UDOT** approved traffic control plan and the application of traffic control devices shall conform to the standards set forth in the "Manual on Uniform Traffic Control Devices" and "Traffic Safety in Highway and Street Work Zones". All flagging personnel shall be certified.

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**THIS AGREEMENT** is made to set out the terms and conditions whereunder said work shall be performed.

**NOW THEREFORE**, it is agreed by and between the parties hereto as follows:

(1). The **Company**, with its regular engineering and construction forces at its standard schedule of wages and working hours, or through qualified contractors appearing on **Company's** pre-approved list with whom they have continuing contracts, shall perform the necessary field and office engineering, furnish all materials and perform the construction work covered herein. In the event **Company** elects to use an outside contractor not appearing on **Company's** pre-approved list the **Company** will solicit bids from contractors in accordance with the laws of the State of Utah and will submit at least the three lowest bids to **UDOT** and will gain written approval from **UDOT** to award said contract. Said bids and contractor approvals are to be processed through **UDOT's** Region Utilities/Railroads Engineering Coordinator. In the performance of said work the **Company** will adhere to the procedures and specifications contained in **UDOT's** most current at the time of executing the addendum of the "MANUAL FOR THE ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY", a copy of which has been furnished to the **Company** and any supplements or amendments thereto. The **Company** shall not perform any construction until authorized in writing by **UDOT**.

(2). The **Company** will notify **UDOT's** Project Engineer assigned to this project at least twenty-four (24) hours in advance of beginning any work covered herein on a day to day basis. Said notification can be formal. It is hereby acknowledged by the parties hereto that, when the **Company** experiences emergency work of its own during work on the highway project, it will take care of said emergency, after which it will again informally notify said Project Engineer's office as to when work will be resumed on said highway project. Failure on the part of the **Company** to give proper notification to **UDOT's** Project Engineer's office will result in **UDOT's** disallowance of reimbursement for that portion of the **Company's** work performed while not under the surveillance of **UDOT's** Project Engineer or his authorized representative.

(3). **UDOT**, through its Project Engineer, will keep daily record of the work performed by the **Company**, such daily record to be in duplicate on a form to be prepared by the **Company** and/or **UDOT**. The type of form to be used shall be approved by **UDOT's** Contracts, Estimates and Agreements Office. Said daily record shall be signed by **UDOT's** Project Engineer and **Company's** authorized representatives in the space provided for on said record form. **UDOT** shall provide the **City** with copies of said records on a bi-weekly basis. Copy of said record form shall be retained by all parties to this agreement. When emergencies occur, requiring the **Company's** work forces to leave the job, said record keeping shall be resumed upon return to the highway project.

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(4). The total estimated cost of the **Company's** relocation work is \$417,928.96, as provided by the **Company** under the date of January 10, 2008. A copy of said cost estimated is marked EXHIBIT A, attached hereto and thereby made a part hereof. The estimate does not account for increases due to unknown and unforeseen hardships in accomplishing the work. **UDOT**, the **Company** and the **City** shall participate in the cost of the work according to the following participation ratios.

ESTIMATED COST PARTICIPATION

Total Minimum Relocation Cost Qwest	\$403,836.70
WVC Cost	14,092.26
Total Relocation cost	<u>\$417,928.96</u>
WVC Cost	14,092.26 3.4%
Qwest Cost 50%	201,918.35 48.3%
UDOT Cost 50%	201,918.35 48.3%
	<u>100.0%</u>

PARTICIPATION RATIOS:

<u>UDOT</u>		<u>COMPANY</u>		<u>CITY</u>
201,918.35		201,918.35		14,092.26
<u>          </u>	= 48.3%	<u>          </u>	= 48.3%	<u>          </u> = 3.4%
417,928.96		417,928.96		417,928.96

(5). In the event there are changes in the scope of the work, extra work, or changes in the planned work covered by this agreement, a modification to this agreement approved in writing by the parties hereto is required prior to the start of work on said changes or additions.

(6). All materials recovered from the existing facilities shall be credited to the cost of the project in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Sec. 645.117, Cost Developments and Reimbursement.

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(7). The **Company**, while engaged in the relocation of their facilities, shall comply with **UDOT's** "2008 Standard Specifications For Road and Bridge Construction, Section 01355, Part 1.13 DISCOVERY OF HISTORICAL, ARCHEOLOGICAL OR PALEONTOLOGICAL OBJECTS".

(8). With respect to work performed by contract, the **Company** shall not discriminate in its choice of contractors and shall include the provisions contained in Section II of the Federal Highway Administration's Form PR 1273, a copy of which has been furnished to the **Company**.

(9). **Company** is required to mark all underground facilities with approved markers and to keep on file "as constructed plans" of all their work covered herein for future reference.

(10). Any of **UDOT's** survey control stakes or bench markers which are removed or damaged by **Company** shall be reestablished by **UDOT** at **Company's** expense.

(11). The **Company** shall submit itemized bills covering their actual costs incurred for performing the work covered herein bearing the project number together with supporting sheets and/or one final and complete billing of all actual costs incurred within one (1) year following completion of the work by the **Company** on **UDOT's** project to: **UDOT** Contracts, Estimates and Agreements Manager, 4501 south 2700 West, Box 148220, Salt Lake City, Utah 84114-8220. **UDOT will reimburse the Company for 51.7% (48.3% minimum work required + 3.4% Aerial to Buried Betterment) of their billable actual costs** for work performed on the Project within sixty (60) days after receipt of said billings. Failure on the part of the **Company** to submit said billings within said one (1) year time limit will result in **UDOT's** disallowance of that portion of work performed by the **Company**. Any work performed without proper notification to **UDOT's** Project Engineer's office will be cited to the **Company** and deducted from the reimbursement.

(12). Upon execution of this agreement by the parties hereto, **the City will deposit** with **UDOT's** Comptroller's Office, 4501 South 27000 West, Box 141500, Salt Lake City, Utah 84119-1500, the **amount of Fourteen Thousand Ninety Two Dollars and Twenty Six Cents (\$14,096.26)**. The final amount of the **City's** participation shall be determined pursuant to the participation ratios contained in enumerated paragraph (4) of this Agreement.

(13). If **Company's** actual costs incurred for their force account work differs more than 10% plus or minus per line item from amount contained herein then **Company** is required to submit a letter of explanation with their billings indicating why and how said difference in costs occurred. **Company** is required to match their billings of completed work with their detailed estimates contained herein.

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(14). Reimbursable costs for work performed under the provisions of this agreement shall be developed in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A. See 645.113 and 645.117.

(15). **UDOT** and the **City** shall have the right to audit all cost records and accounts of the **Company** pertaining to this project. Should this audit disclose that the **Company** has been underpaid, the **Company** will be reimbursed by **UDOT** upon submission of additional billing to cover the underpayment. Should this audit disclose that the **Company** has been overpaid, the **Company** will reimburse **UDOT** in the amount of the overpayment. For purpose of audit the **Company** is required to keep and maintain its records of work covered herein for a minimum of three (3) years after final payment is received by the **Company** from **UDOT**.

(16). It is understood that access for maintenance and servicing of **Company's** property located on the right of way of said project will be permitted only by permit issued by the jurisdiction having responsibility for the right of way to the **Company**, and that the **Company** will obtain said permit and abide by conditions thereof for policing and other controls in conformance with **UDOT's** "MANUAL FOR THE ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY", a copy of which has been furnished to the **Company** and any supplements or amendments thereto.

(17). **UDOT** agrees that all information, plans and reports submitted by the **Company** to **UDOT** for the purpose of the highway project and reimbursement under this Agreement ("Confidential Information") shall be kept confidential. **UDOT** or **UDOT's** contractors acting with authority from **UDOT** shall not divulge or otherwise disclose any of the Confidential Information to any third party without the prior written consent of the **Company**. Notwithstanding the foregoing, if **UDOT** receives a request for disclosure of the Confidential Information pursuant to a court order or as otherwise required by law, audit or any legal or arbitration proceeding relating to this Agreement, **UDOT** will provide the **Company** with prompt prior notice of such request or requirement so that the **Company** may seek an appropriate protective order and/or waive compliance with the Section. The **Company** shall respond to such request, in writing, within ten (10) business days of the request by either authorizing the disclosure or advising of its election to seek a protective order, or if the **Company** fails to respond within the prescribed period the disclosure shall be deemed approved.

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(18). INTERLOCAL COOPERATION ACT.

(a). Term. This agreement shall remain in effect for five (5) years or until the parties have complete all their obligations hereunder and the project work is completed, whichever comes first, unless terminated as provided in the following subsection 18(b).

(b). Mutual Termination. This Agreement may be terminated at any time by mutual written agreement signed by the parties hereto.

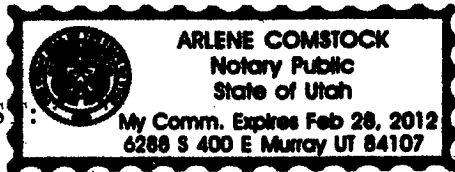
(c). Disposition of Real and Personal Property. The **City** and **UDOT** do not anticipate that they will acquire or hold any real or personal property in this cooperative undertaking, but in the event that any such property is acquired by them jointly for the undertaking, then it shall be held and managed by the party which acquires it in the same manner and with the same care it uses in managing its own property, and such property shall be divided as the two parties' representatives shall agree, or, if no agreement is reached, then it shall be sold and the proceeds divided between **UDOT** and the **City** in proportion to the amount each has paid under this Agreement toward the purchase of the item.

(d). No Separate Interlocal Entity. No separate interlocal entity is created by this Agreement, however, to the extent that any administration of this Agreement becomes necessary, then the **UDOT** Director of Region 2, and the Director of Public Works for the **City**, or their designees, shall constitute a joint board for such purpose.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.



ATTES

Arlene Comstock

Title

Date:

4/28/08

**QWEST CORPORATION,**

a Registered Corporation of the State of Colorado

By

Andrew M. Khan

Andrew M. Khan

Title

Date:

VP, Network Ops

4/28/2008

(IMPRESS SEAL)

\*\*\*\*\*

ATTEST:

**WEST VALLEY CITY CORPORATION,**

A municipal corporation in the State of Utah.

By

Title

Date:

Title

Date:

\*\*\*\*\*

APPROVED AS TO FORM  
West Valley City Attorney's Office

By:

Date:

[Signature]  
5.12.08



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**RECOMMENDED FOR APPROVAL: UTAH DEPARTMENT OF TRANSPORTATION**

By *Raquel S. Melhade*  
Region Utilities and Railroads  
Engineering Coordinator

By \_\_\_\_\_  
Region Director

Date: *4/21/08*

Date: \_\_\_\_\_

\*\*\*\*\*

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
UDOT Comptroller Office  
Contract Administrator

The Utah State Attorney General's  
Office has previously approved all  
paragraphs in this Agreement as to  
form.

Date \_\_\_\_\_

# Exhibit A

1425 West 3100 South  
Salt Lake City, UT 84119-0000



QWEST ESTIMATE of JOB COSTS  
WITH WEST VALLEY CITY AERIAL - BURIED BETTERMENTS  
January 10, 2008

JOB DESCRIPTION: UDOT PROJECT SP-0171(18)6 3500 SOUTH;  
BANGERTER - 2700 WEST PH. 2  
QWEST JOB NUMBER - H76A107

DESCRIPTION	TOTAL ESTIMATED HOURS	100% ESTIMATED COSTS	TOTAL ESTIMATED BETTERMENT HOURS	WEST VALLEY CITY AERIAL - BUR. BETTERMENT	50% BILLABLE TO UDOT
TELCO ENGINEERING	115.55	6,586.10	2.12	120.95	3,293.05
TELCO ENGINEERING OVHD & BENEFITS		1,205.19		22.13	602.59
TELCO CONSTRUCTION LINE					
TELCO CONSTRUCTION SPLICING	348.14	20,027.74			10,013.87
TELCO CONSTRUCTION TEST & TURNUP	63.66	3,661.78			1,830.89
TELCO CONSTRUCTION PLANT					
TELCO CONSTR. OVHD & BENEFITS FOR LINE, SPLICE & PLANT		1,313.64		0.00	656.82
CONTRACT VENDOR LABOR & EQUIP.		213,652.71		10,678.22	106,826.36
TELCO PLANT GENERAL SUPV.	2,657.70	8,478.07	132.83	423.73	4,239.04
CONTRACT VENDOR MATERIAL					
CONTRACT VENDOR OTHER (INSURANCE)					
MOTOR VEHICLE		1,404.24		0.00	702.12
TELCO MATERIALS		80,027.87		702.94	40,013.94
TELCO EXEMPT MATERIAL		15,506.65		513.09	7,753.33
CONTRACT VENDOR ENGINEERING		30,582.23		1,201.52	15,291.12
TELCO ENGINEERING GENERAL SUPV.	345.29	3,601.36	13.57	141.49	1,800.68
OTHER CHARGES					
CONTINGENCY					
CORPORATE NON-REPORTING OVERHEADS		17,789.12		288.19	8,894.56
TOTALS		403,836.70		14,092.26	201,918.35

TOTAL QWEST COST, SUPPORT COST INCLUDED

\$403,836.70

TOTAL QWEST 50% REIMBURSABLE

\$201,918.35

TOTAL UDOT 50% REIMBURSABLE

\$201,918.35

WEST VALLEY CITY AERIAL - BURIED BETTERMENT

\$14,092.26

TOTAL COST TO UDOT & WV CITY SUPPORT COST INCLUDED

\$216,010.61

PERCENT OF QWEST TOTAL COSTS

47%

PERCENT OF UDOT TOTAL COSTS

53%

This report is Confidential Qwest information and is not to be disclosed or distributed.